

1984 WL 250009 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 14, 1984

*1 W. E. Jenkinson, III, Esquire
Jenkinson & Jenkinson, P.A.
Post Office Drawer 669
Kingstree, South Carolina 29556

Dear Mr. Jenkinson:

You have requested the advice of this Office as to whether the Williamsburg County School District (District) may lease an abandoned school building to Williamsburg County (County). According to your information, the building is now being used as a textile plant. A long term lease to the County would enable the County to use a \$200,000 grant to renovate the property. We have not reviewed the proposed lease or all the facts of the proposed transaction here because to do so is not within the province of this Office in issuing opinions. (Ops. Atty. Gen. December 12, 1983.) Therefore we confine our comments to the question of whether the District has any power to lease abandoned school property to the County.

This matter appears to be controlled by [Section 59-19-250 of the Code of Laws of South Carolina \(1976\)](#) which authorizes school trustees ‘. . . to sell or lease land in their district whenever they deem it expedient to do so . . .’ Although special provisions for the disposal of abandoned school property in Williamsburg County are contained in Act 338, Acts & Joint Resolutions of South Carolina, 1955, more recent legislation for the Williamsburg School District expressly vested its board of trustees ‘. . . with all duties and authority . . . granted district boards of trustees. . . under the general law of the State.’ Act 632 of 1980. Thus, this provision should have vested the trustees with the power of [Section 59-19-250](#) as the latter is a general law. A major purpose of Act 338 appears to have been to permit management of abandoned school buildings for the ‘. . . use and benefit of local school districts as [they] existed prior to the consolidation.’ See, [Abell v. Bell, 229 S.C. 1, 91 S.E. 2d 548 \(1956\)](#). Act 632 abolished all local boards which would indicate some dilution of the local interest purposes of Act 338. Moreover, Act 632's recent specific grant of general powers to Williamsburg's trustees indicates an intent that the provisions of [Section 59-19-250](#) would be controlling, at least where Act 338 might limit the powers of the trustees. Sutherland Statutory Construction, Vol. 2A, § 51.05 (4th Ed.); ¹ See [Abell](#).

For these reasons, the Williamsburg District appears to have the power to lease school property to the County under [Section 59-19-250](#). The County has the specific power to purchase property and appears also to have the power to lease it even though the power to lease is not specifically provided. See, [Sections 4-1-10 and 4-9-30\(2\) of the Code](#); 1974 Ops. Atty. Gen. #3699.

Even if Act 338 were controlling, it would appear to permit the lease of property to the county. It provides that the Williamsburg County Board of Education ‘. . . may rent or lease . . . [abandoned school] property to local citizens, groups, associations, or eleemosynary and charitable organizations . . .’ Political bodies such as counties are not expressly named in this list of potential lessees; however, ‘[i]n the construction of statutes, the dominant factor is the intent, not the language of the legislature.’ Spartanburg Sanitary Sewer District v. City of Spartanburg, (Davis Advance Sheets, No. 22159, August 21, 1984). Here, the naming of citizens and other broad categories of lessees indicates that counties would also be eligible lessees. Counties, as subdivisions of the State, exist to ‘. . . promote the welfare of [their] citizens . . .’ [Albritton v. Winona, 181 Miss. 75, 178 So. 799 \(1938\)](#); Constitution of South Carolina, 1895 (as amended), Articles I § 1 and VIII § 1; 72 Am. Jur. 2d States § 1. See also, [Section 4-9-10, et seq. of the Code of Laws of South Carolina \(1976\)](#). Thus, because the property may be leased to citizens whose welfare is protected in part by the County, the School District should be able to lease property to the County under Act 338.

*2 We understand that legislative clarification of the leasing and selling powers of the District will be sought in the future and agree that such action would be desirable. Nevertheless, we believe that existing authority indicates that the School District may lease school property to the County; however, we express no opinion as to the validity of the instant transaction because we have not investigated it. Ops. Atty. Gen. (December 12, 1983).

If we may be of additional assistance, please let us know.

Sincerely,

J. Emory Smith, Jr.
Assistant Attorney General

Footnotes

- ¹ Therefore, we need not address whether Act 338 has been repealed by implication. We confine our conclusion to those circumstances under which Act 338 might limit the action of the trustees more than would [Section 59-19-250](#).

1984 WL 250009 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.